



— State of —
North Dakota
Office of the Governor
John Hoeven
Governor

April 26, 2005

The Honorable Jack Dalrymple
President
North Dakota Senate
State Capitol
Bismarck, ND 58505

Dear President Dalrymple:

I have vetoed SB 2174 and return it unsigned.

Current law provides that companies that service secondary mortgages may require an escrow account to be maintained in an amount equal to “three hundred dollars *plus* the amount necessary to pay real estate taxes, special assessments, and insurance premiums during that calendar year.” [Emphasis added]. Section 47-10.2-01, North Dakota Century Code. Any amount in excess of this stated amount must be returned to the borrower upon demand, and failure to do so may result in a penalty of five hundred dollars, actual damages, costs and attorneys fees. Section 47-10.2-04, North Dakota Century Code.

Current law thus provides a “cushion” of three hundred dollars that may be held in escrow *in addition* to the amount necessary to make the annual payments of taxes, special assessments and insurance.

From the minutes and testimony presented in support of SB 2174, the intent of this legislation is to change the cushion that may be held in such escrow accounts from a flat dollar amount of three hundred dollars to one-twelfth, or one month’s share, of the total annual payments for taxes, special assessments and insurance.

However, SB 2174 does not accomplish this intent. It states in its entirety that “any amount in an escrow account in excess of one-twelfth of the estimated total annual payments from the account” is defined as an “excess amount”. It does not state that this is *in addition to* the amount required to make the total annual payments for taxes, special assessments and insurance.

Thus, what was meant to be the cushion is now the total amount that may be held in such escrow accounts. Clearly, this would defeat the purpose of an escrow account, which is to accumulate the amount needed to pay annual taxes, special assessments and insurance.

Because SB 2174 does not accomplish its intended purpose, and would create confusion in the marketplace, I have vetoed the legislation.

Sincerely,

/s/
John Hoeven
Governor

